IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Jonathan Lewis,)
)
Plaintiff,)
)
)
vs.) C/A NO.: 4:23-cv-01720-JD
)
)
Circle K Stores, Inc.,)
)
Defendant.)

VIDEOTAPED
DEPOSITION OF: NATHANIEL EVANS, M.D.
DATE: July 18, 2024
TIME: 12:18 p.m.
LOCATION: OrthoSC
210 Village Circle Drive
Suite 200
Myrtle Beach, South Carolina

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: Michele L. Owens

VIDEOGRAPHER: Jon Landau

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Would that information be useful to you, again, if you're determining causation or, you know, why is this patient presenting with a particular complaint?
A. Sure, yeah. I mean...
Q. In your note, Dr. Evans -- did you have the McLeod Seacoast notes from October 19th, 2022?
A. I do have that. I'll pull it up now. Yeah, I have it.
Q. And, again, Mr. Lewis would have given an HPI, a history of present illness, when he presented to McLeod as well?
A. Yes.
Q. And would you be able to read that HPI into the record for us?
A. I'm scrolling through the note.
Q. And I have it...
A. Yeah, I'll take that. Yeah, so this is from 10/19, so [reading]: 34-year-old male -- I think that part is -- no, he would have -- I think his...
Q. The age might be wrong.
A. I was going to say, his date of birth is wrong on this. Yeah, I think he was -- this has [reading]: 34-year-old male with right knee pain,

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right knee pain occurred after he slipped on a wet floor at a gas station just prior to arrival. Patient states that he has Lexuss -- or split side to side -- I'm not sure what that says. [Reading] His right big toe got caught on the floor, and he twisted his right knee. Patient denies hitting his head or back and does not have any pain except his right knee.
Q. Thank you, Doctor. Can you, I understand -- and so what did you end up diagnosing Mr. Lewis with? What was the specific injury you believe he suffered?
A. A patellar tendon rupture.
Q. Am I correct that a patellar tendon rupture could either be acute or chronic; is that correct?
A. A chronic patellar tendon rupture would be incredibly rare.
Q. Okay.
A. It's almost exclusively acute. It's almost exclusively from an injury. You may have weakness or something on a patellar tendon, but it's more likely your quadricepts tendon that may predispose you to have injury, but it's almost always an acute injury.

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Q. And it's my understanding that a patellar tendon can tear or rupture when there is a forceful indirect contraction of the quadricepts tendon; is that correct?
A. Sure, yeah. Basically, if somebody's knee bends really quickly, it can rupture the patellar tendon.
Q. And would a person who maybe unexpectedly slips or their foot turns one way or their knee turns another way, is that a common cause of a ruptured patellar tendon?
MR. HOLT: Objection, leading. Go ahead, Doctor.
A. Yes, that would be a common mechanism, something where your knee bends quickly or unexpectedly. We will see it in, like, skiing injuries or something like that, if somebody's ski gets caught and the foot turns one way and the leg goes the other way, that type of picture of why your patellar tendon might rupture.
Q. Would maybe an event like a missed step, could that also be -- or could that also cause a patellar tendon rupture?
MR. HOLT: Same objection.
A. Yeah. So I think -- usually there

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might have to be something a little bit more to go with it, so falling down. Somebody just missing the last step -- it would probably be as they are falling that potentially their patellar tendon ruptures, but just skipping over one step or stumbling a little bit, maybe not as much.
BY MR. SANDEFUR:
Q. Does the patellar tendon, for it to tear or rupture, does it require a pretty significant amount of --
A. Yeah, and I think that's what I'm indicating there is, that it would take a little -- a descent bit of force to cause it to rupture.
Q. Based on what we just talked about, about what would potentially cause a patellar tendon to rupture and the history of present illness given by Mr. Lewis, do you have an opinion as to whether or not Mr. Lewis' patellar tendon was an acute event?
A. I think it was, yes.
Q. Is hearing a pop when someone ruptures their patellar tendon, is that pretty common?
A. Yeah, I think people feel some sort of sensation that something is torn or ruptured or something is not quite right.

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Q. Is there anything that you see in Mr. Lewis' records or based on your history or training or education and your experiences, does this seem to be a situation where Mr. Lewis' patellar tendon just spontaneously gave out?
A. No.
Q. Would you expect a person with no issues ambulating to suddenly have their patellar tendon rupture or tear?
MR. HOLT: Objection, misstates the facts in evidence.
You may answer, Doctor.
A. No.
BY MR. SANDEFUR:
Q. And to -- or is it your opinion that Mr. Lewis suffered an acute injury to his right patellar tendon?
A. Yes.
Q. And is that opinion to a reasonable degree of medical probability?
A. Yes.
Q. Can you tell us, in layman's terms, what happens when an individual ruptures their patellar tendon?
A. Are you asking about how do we treat,

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or are you asking about the biomechanics of what happens to the tendon?
Q. The biomechanics. What does that tendon do? How does that affect someone who has ruptured their patellar tendon?
MR. HOLT: I'll object. He's not been qualified as a biomechanics expert.
But you can go ahead and answer, Doctor.
A. Sure. So the patellar tendon, if you think of this as the knee [indicating], the tendon comes in and inserts on the top of the tibia, or shinbone basically, and that tendon, through its attachment, helps elevate the lower leg, so basically straighten out your knee. So if that connection is disconnected, if the tendon is ruptured, you would be unable to straighten out your knee; and so when sitting in a chair trying to lift your foot off the ground, you'd be unable to do that; or even walking, you would be unable to swing your leg out straight to be able to extend it to plant for your next step, so...
BY MR. SANDEFUR:
Q. So I'm assuming that having a ruptured tendon, would that interfere greatly with a

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person's ability to --
A. Yeah. You wouldn't be able to walk. You wouldn't be able to get up and down out of a chair. You wouldn't be able to do much of anything.
Q. Did you -- what was the diagnosis that you gave Mr. Lewis after he came to see you in October?
A. Patellar tendon rupture.
Q. And did you perform any medical procedures on Mr. Lewis?
A. Yeah. We obtained an MRI to confirm the diagnosis, but also scheduled him for surgery for basically the repair of the patellar tendon rupture. Yeah. We also were going to place him in an external fixator, which is pins and bars to help stabilize the knee. For him, that's a little bit of an unusual part of the case.
Usually we put somebody in a splint. Mr. Lewis is a fairly large individual, so I was concerned that, number one, we quite frankly wouldn't have any braces that would fit him; and so it would be hard to stabilize and protect that repair, because you can basically reattach the tendon back down to the bone, but then it needs

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time for the tendon to heal back into the bone.
So if you were to bend the knee, you would put a lot of stress on that repair, and those sutures that are basically holding things in place are not strong enough initially to counteract his body weight basically, and so we need to do something to protect it. So normally a brace or something would do that to keep your leg straight. You keep it immobilized so it has time to heal. In his case, we felt like we needed what's called an external fixator, this metal frame with carbon fiber rods to hold it in place.
Q. And you just brought up Mr. Lewis' size. I think he's 6'1". He's about 350 pounds. Isn't that about right?
A. At least, yeah.
Q. He's a big guy.
Did Mr. Lewis have any other pre-existing conditions that were of note to you, specifically regarding his knees?
A. My understanding was he had ruptured his -- well, I don't have it in front of me -- maybe both knees he had a patellar tendon rupture back maybe in high school, like, late teenage years, somewhere around there, I believe.

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A. Based on this report, I mean, this is basically the EMS or firefighter or paramedic -- whoever wrote this, this is their -- this is their assessment of what the patient told them. I have no reason to doubt that.
Q. And, Doctor, do you have any reason to doubt that the pop Mr. Lewis heard preceded him falling?
A. I think -- I think it would be unusual to have your knee just pop randomly and then fall down. Usually, your knee is going to be in a position that is stressed, is seeing increased stress on the knee. Patellar tendons don't just rupture spontaneously. I'm not worried that as I'm walking around today my patellar tendon is going to pop. That's usually not something that happens.
So I think the way it's recorded, that somebody is having a fall or somebody is going through an injury, the timing is so instantaneous that it's hard for the patients, I think, to determine the sequence of events going on, when it's milliseconds that are separating them.
Q. Have you heard of something called forced extension against fixed flexion?
A. Forced extension, yeah, I mean, like

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a --
Q. What would that be, or what would that look like?
A. So, I mean, I guess, like, in sports we would see something like that where -- like we wonder if this is how ACL ruptures and things happen where your leg is planted and then you go to move or maneuver and part of your leg is fixed, whether it's held in place by somebody else or something, and then your knee acts as if it's going to bend or twist and then is unable to kind of carry out that motion because something is preventing it from doing it.
Q. And that could happen, for example, if someone is walking and they kind of drag their toe behind them and fail to pick it up at the right time and that kind of mechanic occurrence takes place, correct?
A. Sure. Yeah, I mean -- yeah.
Q. Have you -- I'll represent to you there is a video of Mr. Lewis' fall. Have you seen that video?
A. I have not.
Q. Okay. There is another doctor in this case who has been retained, a Dr. Calandra, and

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upon review of the video, he indicated that this was an instance of forced extension against fixed flexion.
Do you have any reason to doubt, based on your reading of record, that that is something that occurred?
MR. SANDEFUR: Object to the form.
A. I mean, I think the video would be pretty telling about it one way or the other, either he slipped and stumbled on something that was on the ground and went down, or he was walking along and there was nothing there and he fell. I don't know. I haven't seen the video, so...
BY MR. HOLT:
Q. Is it fair to say that once you have a patellar tendon repair, as good as you guys are, there's no way to really get that tendon back to as good as it was the first go around?
A. Sure. Yeah, when it heals it's going to heal with scar tissue or heal with tissue that is not as good as your native tissue.
Q. Do you remember finding scar tissue and evidence of the prior repair when you went in and worked on Mr. Lewis back in 2022?
A. Yeah, you can definitely tell the

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difference between something that's had surgery before and something that's had a previous trauma and something that has not.
Q. Okay. And is it fair to say that with a weaker tendon it probably take less of an acute event to cause it to tear again than somebody who hasn't had the same history as Mr. Lewis?
A. Yes.
Q. And also contributing to that would be Mr. Lewis' obesity; is that correct?
A. Yes.
Q. I'll show you Exhibit 4, which does look like it's part of your record.
(Exhibit 4, OrthoSC Assessment and Plan, was marked for identification.)
BY MR. HOLT:
Q. Do you see at the top where actually he is being referred to as being morbidly obese?
A. Yes. And that's a -- based on a BMI diagnosis. It's not a subjective think.
Q. Sure.
A. His BMI is 48.2.
Q. And it's based --
A. The BMI is based on the height and weight, so according to our vitals that we have --